IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

WP(C).No. 13797 of 2007(P)

AGAINST THE ORDER IN IA.1231/2007 IN OS.236/1999 of PRL.MUNSIFF COURT, CHERTHALA

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PETITIONER:

PHILOMINA @ SALOMI & SALOMMA JOB,
THEKKEVALYARA PUTHENVEEDU,
THYKKATTUSSERY P.O., ALAPPUZHA.

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENTS:

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1. **THE SUB INSPECTOR OF POLICE,**
   POOCHAKKAL POLICE STATION, ALAPPUZHA.

2. **THE CIRCLE INSPECTOR OF POLICE,**
   CHERTHALA, ALAPPUZHA.

3. **GEORGEKUTTY @ APPACHANKUNJU,**
   THEKKEVALYARA PUTHENVEEDU,
   THYKKATTUSSERY P.O., ALAPPUZHA.

BY ADV. SRI.ROY CHACKO
BY GOVERNMENT PLEADER SMT. R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.13797/2007 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE DEED IN FAVOUR OF PETITIONER DTD. 22/04/1997.

EXT.P2: COPY OF THE O.S.NO.236/99 FILED BEFORE THE MUNSIFF COURT, CHERTHALA DTD. 8/03/99.

EXT.P3: COPY OF THE ORDER ISSUED BY THE ADDL.MUNSIFF, CHERTHALA DTD. 22/05/99.

EXT.P4: COPY OF THE COMPLAINT AND RECEIPT SUBMITTED BY THE PETITIONER TO 1ST RESPONDENT DTD. 9/04/2007.

EXT.P5: COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT 13/04/2007.

EXT.P6: COPY OF THE COMPLAINT SUBMITTED BY PETITIONER TO THE 2ND RESPONDENT DTD. 18/04/2007.

EXT.P7: COPIES OF PHOTOGRAPHS SHOWING TEAK TREES DESTROYED TAKEN ON 29/04/2007.

EXT.P8: COPY OF COMPLAINT DTD. 29/04/2007 LODGED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P9: COPY OF RECEIPT DTD. 29/04/2007 ISSUED BY THE 1ST RESPONDENT.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE AGREEMENT ENTERRED INTO BETWEEN BIJU JOSEPH AND THE MOTHER OF THE PETITIONER.

EXT.R3(B): COPY OF THE I.A.NO.1231 OF 2007 IN O.S.236/99 M.C.CHERTHALA.

/TRUE COPY/

KSS

M.N.KRISHNAN, J

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W.P.(C) No.13797 OF 2007

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Dated this the 29th day of May, 2007

JUDGMENT

This writ petition is filed seeking a direction to the Munsiff's Court, Cherthala to issue carbon copy of the judgment in O.S.No.236/99 and to issue a writ of mandamus directing respondents 1 and 2 to prevent the cutting and removal of trees from the plaint schedule properties and committing any waste till the order in I.A.No.1231 of 2007 is served to the petitioner from the Munsiff's Court and to pass an order of stay of the operation of the judgment in O.S.No.236/99.

2. When the matter came up for admission during vacation, a learned Judge of this court granted stay for two months and the interim prayer sought for was to direct the police officials, viz., respondents 1 and 2 to prevent the cutting and removal of trees from the plaintiff schedule properties pending disposal of the petition. At the outset, I may like to point out that when appropriate remedies are provided under the provisions of the C.P.C. instead of making use of those provisions and preferring appeals before the vacation court, the writ petitioner has rushed to this court for

relief. It is not proper. But being an aggrieved party, it is only just and reasonable to see that no waste is committed in the property and trees are not cut and removed till he is able to get a copy of the judgment and file appeal as contemplated under law.

Therefore the writ petition is disposed of as following:(1) The learned Munsiff is directed to issue a carbon copy, if not already issued, to the petitioner, if there is compliance of the relevant provisions of the Civil Rules of Practice. He may also issue a certificate as contemplated under Order XX Rule 6(a) or 6(b) so as to enable the petitioner to file an appeal before appropriate court. For the said purpose a reasonable time has to be granted and therefore the 3rd respondent and his son are directed not to cut and remove any trees from the plaint schedule properties and not to alter the physical features of the property for the said period of one month.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-